

**ORAL ARGUMENT HELD ON MAY 17, 2024
DECISION ISSUED ON AUGUST 6, 2024**

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CITY OF PORT ISABEL, *et al.*,

Petitioners,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Respondent,

RIO BRAVO PIPELINE COMPANY,
LLC; RIO GRANDE LNG, LLC,

Intervenors for Respondent.

No. 23-1174 (L), 23-1221

**MOTION OF RIO BRAVO PIPELINE COMPANY, LLC
FOR EXTENSION OF TIME TO FILE PETITION FOR REHEARING**

Pursuant to Federal Rules of Appellate Procedure 26(b), 27, 35(c), and 40(a)(1) and D.C. Circuit Rule 35(a), Respondent-Intervenor Rio Bravo Pipeline Company, LLC (“Rio Bravo”) hereby moves for a 30-day extension of time in which to file any petition for rehearing, to and including October 21, 2024. Through this motion, Rio Bravo is requesting the same extension, and is proposing the same revised deadline, as Rio Grande LNG, LLC (“Rio Grande”) and Texas LNG Brownsville LLC (“Texas LNG”) have proposed in their respective separate pending

motions. Rio Bravo is authorized to represent that respondent the Federal Energy Regulatory Commission (“FERC” or “the Commission”) and respondent-intervenors Rio Grande (in case 23-1174) and Texas LNG (in case 23-1175) do not oppose this motion. Petitioners oppose this motion.

In support of this motion, Rio Bravo states as follows:

1. This case involves petitions for review of two orders of the Commission: *Rio Grande LNG, LLC*, 183 FERC ¶ 61,046 (Apr. 21, 2023), and *Rio Grande LNG, LLC*, 185 FERC ¶ 61,080 (Oct. 27, 2023).

2. On August 6, 2024, this Court issued an opinion granting the petitions for review in certain respects, and vacating the challenged orders. The Court’s opinion also granted in part the petitions for review in cases 23-1175 and 23-1222, involving FERC orders relating to the Texas LNG project. The deadline for filing a petition for rehearing of the August 6 opinion is September 20, 2024.¹ Rio Bravo has not previously sought an extension of this filing date. Rio Bravo hereby requests to have an additional 30 days, to and including October 21, 2024, to file any rehearing petition.

3. On August 21, 2024, Rio Grande filed a motion asking this Court for a 30-day extension of time in which to file any petition for rehearing. *See* Mot. (Aug.

¹ The Court entered judgment on August 6, 2024. Pursuant to Federal Rules of Appellate Procedure 35(c) and 40(a)(1) and D.C. Circuit Rule 35(a), the current deadline for filing a rehearing petition is 45 days after entry of judgment.

21, 2024) (Doc. 2071236). Among other things, Rio Grande explained that an extension of time would facilitate coordination with counsel for Rio Bravo, Texas LNG, and the Commission, serving the interest of avoiding redundant or duplicative rehearing petitions. Rio Grande also explained other factors that supported a finding of good cause for its proposed 30-day extension. *See id.* at 2-3. On August 26, 2024, Texas LNG filed a motion seeking the same extension in cases 23-1175 and 23-1222. Mot., No. 23-1175 (Aug. 26, 2024) (Doc. 2071749).

4. Rio Bravo agrees that additional time is necessary to allow coordination between separately represented parties regarding potential arguments on rehearing, and respectfully submits that such time would serve the interests of all parties in avoiding duplicative briefing.

5. Having different deadlines apply for parties to a single proceeding to seek rehearing of a single judgment would likely lead to inefficient and duplicative briefing. That concern also exists with regard to any rehearing petition that may be filed by Texas LNG, in light of the Court's issuance of a combined opinion and judgment addressing the FERC orders in these cases. By contrast, keeping the rehearing deadlines aligned would allow for efficiency and coordination of briefing, for instance if this Court were to request a response to any rehearing petition.

6. In addition to the need for coordination among separately represented parties, Rio Bravo is working diligently, but respectfully submits that additional time

is necessary to complete its analysis of this Court's opinion and to determine the potential bases and appropriate scope of any rehearing petition. The extension will also help accommodate counsel's preexisting professional commitments in other matters. For instance, undersigned counsel for Rio Bravo will be presenting oral argument on September 3, 2024, in the U.S. Court of Appeals for the Fifth Circuit in *Indigenous Peoples of the Coastal Bend v. U.S. Army Corps of Engineers*, case 23-40555; has principal responsibility for an amicus brief to be filed in the Colorado Supreme Court on September 9, 2024, in *Public Service Company of Colorado d/b/a Xcel Energy v. Outdoor Design Landscaping LLC*, case 2023-SC-659; and has a deadline of September 12, 2024, in which to file a petition for writ of certiorari in the Supreme Court of the United States in *United States v. Rogers*, case 22-1432 from the U.S. Court of Appeals for the Sixth Circuit.

* * *

For the reasons stated, the Court should grant Rio Bravo's motion for a 30-day extension of time, to and including October 21, 2024, in which to file any petition for rehearing.

Date: Aug. 27, 2024

Respectfully submitted,

/s/ Jeremy C. Marwell

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the word limit of Fed. R. App. P. 27(d)(2) because it contains 786 words, excluding the parts exempted by Fed. R. App. P. 32(f) and 27(d)(2).

2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Times New Roman 14-point font.

Date: Aug. 27, 2024

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CERTIFICATE OF SERVICE

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure, I hereby certify that on August 27, 2024, I electronically filed the foregoing *Motion of Rio Bravo Pipeline Company, LLC, for Extension of Time to File Petition for Rehearing* with the Clerk of the Court for the U.S. Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system, and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

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